

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-20482-CIV-LENARD/WHITE

ROBERT MARSHALL,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION (D.E. 7) AND
TRANSFERRING CASE TO EASTERN DISTRICT OF MISSOURI**

THIS CAUSE is before the Court on the Report and Recommendation of Magistrate Judge Patrick A. White (“Report,” D.E. 7), issued on February 23, 2010. Petitioner Robert Marshall (“Petitioner”) filed Objections to the Report (“Objections,” D.E. 8) on March 4, 2010. After a *de novo* review of the Report, the Objections and the record, the Court finds as follows.

Currently incarcerated in the Federal Correctional Institution in Miami, Petitioner filed his *pro se* Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (“Petition,” D.E. 1) on February 16, 2010. Petitioner attacks convictions in Case Nos. 4:06-CR-730-REW and 07-CR-035-REW, both entered in the United States District Court for the Eastern District of Missouri.

In his Report, Magistrate Judge White finds that this Petition, filed under § 2241, is a motion to vacate pursuant to 28 U.S.C. § 2255 and therefore must be directed to the court

which imposed the sentence. (Report at 2.) Magistrate Judge White recommends this case be transferred to the United States District Court for the Eastern District of Missouri. (*Id.*)

Petitioner objects to the Report and argues that his Petition, filed under the “savings clause” of §2255, may be brought in the district of incarceration. (Objections at 3.) However, none of the case law cited in the Objections supports this proposition. (*See id.* at 3-4 (citations omitted).) To the contrary, it is well-settled that a § 2255 motion to vacate must be brought in the district where the movant was sentenced. Petitioner’s Objections are thus without merit.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Report and Recommendations of the Magistrate Judge (D.E. 7), issued on February 23, 2010, is **ADOPTED**.
2. The Clerk of this Court shall take all necessary action to **TRANSFER** this case to the United States District Court for the Eastern District of Missouri.
3. This Case is now **CLOSED**.

DONE AND ORDERED in Chambers at Miami, Florida this 12th day of January, 2010.


JOAN A. LENARD
UNITED STATES DISTRICT JUDGE